

LC letter
7/26/00

— CA 367-00
VAR

Droege, Roy
2657

MSA-S-1829-964

Public Hearing
August 3, 2000
September 7, 2000

Mr. and Mrs. Roy Droege have applied to the Board of Appeals for a variance in the 100' waterfront buffer requirements for installation of a well and associated piping within the buffer. The subject property is known as Lots 544 & 549, Rousby Hall Subdivision, is located on the northwest corner of the intersection of Baltimore Avenue and Maryland Avenue and is zoned R-1 Residential.

The matter was presented August 3, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. and Mrs. Droege were present at the hearing and were represented by Mr. Jack Upton, Attorney-at-Law and Mr. William Watson, from the Developer's Advocate. The following Exhibits were dated and entered into the record at the hearing: The Septic Permit Plat for Site 3, which was submitted with the application, was marked Applicants' Exhibit No. 1; the Septic Permit Plat for Site 4, which was submitted with the application, was marked Applicants' Exhibit No. 2; and a plat for revised sites 1-4, submitted at the hearing, was marked Applicants' Exhibit No. 3. Public comments were received at the hearing from Mr. Adrian Joy objecting to the Applicants' request. A staff report, along with photographs taken on-site, were also entered into the record. The Board deferred action at the August hearing pending a site visit.

The matter was again presented September 7,, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. and Mrs. Droege were present at the hearing and were represented by Mr. Jack Upton, Attorney-at-Law and Mr. William Watson, from the Developer's Advocate.

RECEIVED

OCT 12 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property consists of a number of lots that were platted about 100 years ago. Each group of lots is 16,680 square feet in size (.38 acres). The property is currently unimproved.
2. The topography of the property is level. The property is fully wooded.
3. Lots 539, 543, 544 and 547 are to be combined as one buildable parcel and a replatting of the lots shall be done to depict this.
4. Lots 537, 538, 548 and 549 are to be combined as one buildable parcel and a replatting of the lots shall be done to depict this.
5. The Applicants are requesting a variance in the 100' waterfront buffer requirements for installation of a well (to serve a future house on Lots 537, 538, 548 and 549) and septic piping (to serve a future house on Lots 539, 543, 544 and 547).
6. The lots are too small to stand alone as buildable lots to meet today's construction requirements.
7. The lots are properly grandfathered for variance consideration.
8. Mr. Watson, the Applicants' representative, testified at the September 7th hearing that there is limited heavy vegetation in the area proposed for the well. Disturbance to this area will be minimal.
9. Public comments were received at the August 3rd hearing from Mr. Adrian Joy expressing concerns with access to his property and environmental issues based on the Applicants' proposal.
10. The Board and Staff made a site visit to the subject property in September and no environmental concerns were noted.
11. Comments dated July 26, 2000 were received from the Chesapeake Bay Critical Area Commission indicating no objection to the Applicants' request provided these lots are properly grandfathered

12. Comments dated July 28, 2000 were received from the Engineering Bureau indicating the site plan is acceptable as submitted.
13. Comments dated July 25, 2000 were received from the Calvert Soil Conservation District indicating an erosion and sediment control plan must be submitted to their office and approval from Planning and Zoning and Public Works must be received before a grading permit can be issued.
14. There was no one present at the September 7th hearings who objected to the Applicants' request.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions
(in accordance with Section 7-3.01B of the Calvert County Zoning Ordinance):

1. Strict application of the waterfront buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property as the unusual lot configurations and locations require placement of a well and septic line within the buffer. In addition, there are no environmental concerns relative to the proposal.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as the lots are properly grandfathered for variance consideration. An erosion and sediment control plan must be submitted for approval from Planning and Zoning and Public Works before a Building Permit will be issued.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of a variance will not confer upon the applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any

condition relating to land or building use, either permitted or non-conforming, on any neighboring property.

7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law; and
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the waterfront buffer requirements as requested by Mr. Jack Upton and Mr. William Watson, on behalf of the property owners, Mr. and Mrs. Roy Droege, be granted based on the above findings of fact and conclusions.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: October 11, 2000
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

July 26, 2000

Ms. Roxana Whitt
Calvert County Planning & Zoning
150 Main Street
Prince Frederick, MD 20678

RE: Variance Case No. 00-2657, Mr. & Mrs. Roy Droege

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to disturb the 100-foot Buffer for installation of a well (to serve a future house on Lots 537, 538, 548 and 549) and septic piping (to serve a future house on Lots 539, 543, 544 and 547). Each group of lots is 16,680 square feet in size (.38 acres) in size and is currently fully wooded and undeveloped.

Provided these lots are properly grandfathered, this office does not oppose the siting of a single family dwelling on them. Based on the size of the lots, it is possible that variances to clear over 30% of the sites may also be necessary. Development of these lots should be designed to minimize impacts such as clearing and grading and development activities in the Buffer. It is not clear from the information provided exactly how many lots the applicants own. Lot consolidation should occur in a way that minimizes overall impacts.

With regard to the well within the Buffer, it appears that the well could be relocated outside of the Buffer, while still maintaining the required distance from the other well and the house. With regard to the septic piping in the Buffer on the other set of lots, it seems that if the applicants also own lots 542, 541, 540 or 546, the septic design could be altered such that piping would not go through the Buffer (via a utility easement of some sort).

Again, while we do not oppose development of properly grandfathered lots, it appears that the requested variances could be avoided. Please advise this office if a variance for clearing over 30% is also going to be required. We would like the opportunity to comment on that request as well.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: CA367-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 CALVERT STREET, 2ND FLOOR
ANNAPOLIS, MD 21401

CA 367-00

7/28

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Calvert Date: 7/12/00
Name of Project (site name, subdivision name, or other): Well w/ PIPING
Local case number: 00-2657 (DROEGE)
Project location/Address: _____

Tax map# 44 Block# _____ Lot# 549 Parcel# _____
TAX ID: 1-047531 & 1-205498

Type of application: (Select all applicable)
☐ SUBDIVISION
☐ SITE PLAN
☒ VARIANCE:
Buffer ___ Slope ___
Imp. Surf. ___ Other ___
☐ SPECIAL EXCEPTION
☐ CONDITIONAL USE
☐ REZONING
☐ GRADING PERMIT
☐ BLDG PERMIT
☐ INTRAFAMILY
☐ GROWTH ALLOCATION
☐ OTHERS _____

Type of Project: (Select all applicable)
☒ RESIDENTIAL
☐ COMMERCIAL
☐ WATER DEPENDENT
FACILITY/PIER/MARINA
☐ INDUSTRIAL
☐ MIXED USE
☐ REDEVELOPMENT
☐ SHORE EROSION PROTEC.
☐ AGRICULTURE
☐ OTHERS _____
e.g. PUD

Current Use: (Select all applicable)
☐ COMMERCIAL
☒ RESIDENTIAL
☐ AGRICULTURE
☐ FOREST/BUFFER/WOODLAND
☐ INDUSTRIAL
☐ INSTITUTIONAL
☐ OPEN SPACE/RECRE.
☐ SURFACE MINING
☐ VACANT
☐ WATER DEPENDENT
FACILITY/PIER/MARINA
☐ OTHERS _____

Describe Proposed use of project site: 100' Waterfront
Butter Variance

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 4.60 Acres

| | | | |
|--------------------|----------|-------------------|-------|
| IDA ACRES | _____ | AREA DISTURBED: | _____ |
| LDA ACRES | <u>✓</u> | # LOTS CREATED: | _____ |
| RCA ACRES | _____ | # DWELLING UNITS: | _____ |
| AGRICULTURAL LAND: | _____ | | |

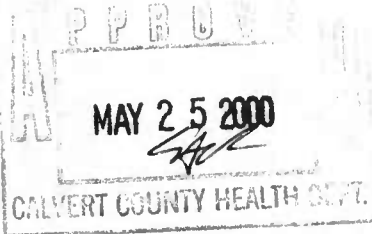
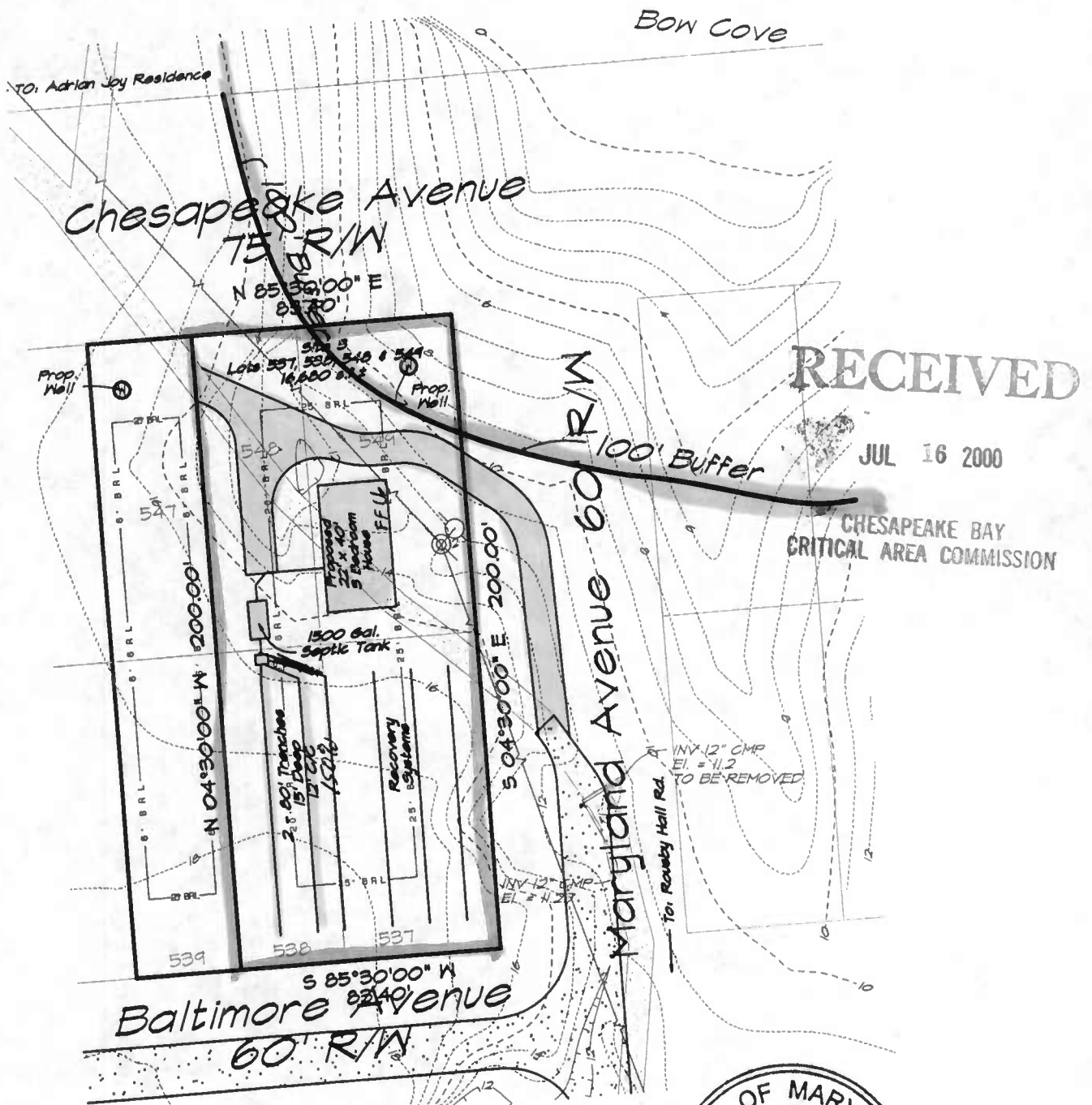
EXISTING FOREST/WOODLAND/TREES: _____ FOREST/WOODLAND/TREES REMOVED: _____
FOREST/WOODLAND/TREES CREATED: _____
EXISTING IMPERVIOUS SURFACE: _____ PROPOSED IMPERVIOUS SURFACE: _____
TOTAL IMPERVIOUS SURFACE: _____
GROWTH ALLOCATION DEDUCTED: _____
RCA to LDA: _____ RCA to IDA: _____ LDA to IDA: _____

RECEIVED

JUL 13 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Local Jurisdiction Contact person: Roxana L. Whitt
Telephone number: 410-535-1600 Ext. 335
Response from Commission required by: 7/28/00 Hearing Date: 8/3/00



Notes:

1. Topography shown hereon is from a field-run survey dated 12/18/98, datum - Mean High Water. Contour Interval = 1'.
2. Lot 537, 538, 548 and 549 are to be conveyed as one building site and a replatting of the lots shall be done to depict this.
3. Trenches to be 3' wide.
4. House has Basement.



GRAPHIC SCALE

1"=50'



Septic Permit Plat ~ Site 3

Lots 537, 538, 548 & 549

Located on Chesapeake Avenue
Rousby Hall Subdivision
1st District ~ Calvert County, MD
For: Mr. & Mrs. Roy Droege

Copyright Last
Date Indicated
Hereon

THE
Developer's
Advocate

LAND DEVELOPMENT CONSULTING & DESIGN

30 Church St., Suite 003
P.O. Box 3547
Prince Frederick, MD 20678

(410) 535-4304
fax: (410) 535-4306

Drawn By: WRW
Scale: As Shown
Date: 12/7/1999
Folder: _____
Sheet: _____
File: C:\Data\Droege\droege.pro

Plotted: 5/15/2000 11:34:47AM

Per Record Plat of Rousby Hall

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

July 26, 2000

Ms. Roxana Whitt
Calvert County Planning & Zoning
150 Main Street
Prince Frederick, MD 20678

RE: Variance Case No. 00-2657, Mr. & Mrs. Roy Droege

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to disturb the 100-foot Buffer for installation of a well (to serve a future house on Lots 537, 538, 548 and 549) and septic piping (to serve a future house on Lots 539, 543, 544 and 547). Each group of lots is 16,680 square feet in size (.38 acres) in size and is currently fully wooded and undeveloped.

Provided these lots are properly grandfathered, this office does not oppose the siting of a single family dwelling on them. Based on the size of the lots, it is possible that variances to clear over 30% of the sites may also be necessary. Development of these lots should be designed to minimize impacts such as clearing and grading and development activities in the Buffer. It is not clear from the information provided exactly how many lots the applicants own. Lot consolidation should occur in a way that minimizes overall impacts.

With regard to the well within the Buffer, it appears that the well could be relocated outside of the Buffer, while still maintaining the required distance from the other well and the house. With regard to the septic piping in the Buffer on the other set of lots, it seems that if the applicants also own lots 542, 541, 540 or 546, the septic design could be altered such that piping would not go through the Buffer (via a utility easement of some sort).

Again, while we do not oppose development of properly grandfathered lots, it appears that the requested variances could be avoided. Please advise this office if a variance for clearing over 30% is also going to be required. We would like the opportunity to comment on that request as well.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: CA367-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Public Hearing
August 3, 2000
September 7, 2000

Mr. and Mrs. Roy Droege have applied to the Board of Appeals for a variance in the 100' waterfront buffer requirements for installation of a well and associated piping within the buffer. The subject property is known as Lots 544 & 549, Rousby Hall Subdivision, is located on the northwest corner of the intersection of Baltimore Avenue and Maryland Avenue and is zoned R-1 Residential.

The matter was presented August 3, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. and Mrs. Droege were present at the hearing and were represented by Mr. Jack Upton, Attorney-at-Law and Mr. William Watson, from the Developer's Advocate. The following Exhibits were dated and entered into the record at the hearing: The Septic Permit Plat for Site 3, which was submitted with the application, was marked Applicants' Exhibit No. 1; the Septic Permit Plat for Site 4, which was submitted with the application, was marked Applicants' Exhibit No. 2; and a plat for revised sites 1-4, submitted at the hearing, was marked Applicants' Exhibit No. 3. Public comments were received at the hearing from Mr. Adrian Joy objecting to the Applicants' request. A staff report, along with photographs taken on-site, were also entered into the record. The Board deferred action at the August hearing pending a site visit.

The matter was again presented September 7,, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. and Mrs. Droege were present at the hearing and were represented by Mr. Jack Upton, Attorney-at-Law and Mr. Willliam Watson, from the Developer's Advocate.

RECEIVED

OCT 12 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property consists of a number of lots that were platted about 100 years ago. Each group of lots is 16,680 square feet in size (.38 acres). The property is currently unimproved.
2. The topography of the property is level. The property is fully wooded.
3. Lots 539, 543, 544 and 547 are to be combined as one buildable parcel and a replatting of the lots shall be done to depict this.
4. Lots 537, 538, 548 and 549 are to be combined as one buildable parcel and a replatting of the lots shall be done to depict this.
5. The Applicants are requesting a variance in the 100' waterfront buffer requirements for installation of a well (to serve a future house on Lots 537, 538, 548 and 549) and septic piping (to serve a future house on Lots 539, 543, 544 and 547).
6. The lots are too small to stand alone as buildable lots to meet today's construction requirements.
7. The lots are properly grandfathered for variance consideration.
8. Mr. Watson, the Applicants' representative, testified at the September 7th hearing that there is limited heavy vegetation in the area proposed for the well. Disturbance to this area will be minimal.
9. Public comments were received at the August 3rd hearing from Mr. Adrian Joy expressing concerns with access to his property and environmental issues based on the Applicants' proposal.
10. The Board and Staff made a site visit to the subject property in September and no environmental concerns were noted.
11. Comments dated July 26, 2000 were received from the Chesapeake Bay Critical Area Commission indicating no objection to the Applicants' request provided these lots are properly grandfathered

12. Comments dated July 28, 2000 were received from the Engineering Bureau indicating the site plan is acceptable as submitted.
13. Comments dated July 25, 2000 were received from the Calvert Soil Conservation District indicating an erosion and sediment control plan must be submitted to their office and approval from Planning and Zoning and Public Works must be received before a grading permit can be issued.
14. There was no one present at the September 7th hearings who objected to the Applicants' request.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions

(in accordance with Section 7-3.01B of the Calvert County Zoning Ordinance):

1. Strict application of the waterfront buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property as the unusual lot configurations and locations require placement of a well and septic line within the buffer. In addition, there are no environmental concerns relative to the proposal.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as the lots are properly grandfathered for variance consideration. An erosion and sediment control plan must be submitted for approval from Planning and Zoning and Public Works before a Building Permit will be issued.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of a variance will not confer upon the applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any

condition relating to land or building use, either permitted or non-conforming, on any neighboring property.

7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law; and
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the waterfront buffer requirements as requested by Mr. Jack Upton and Mr. William Watson, on behalf of the property owners, Mr. and Mrs. Roy Droege, be granted based on the above findings of fact and conclusions.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: October 11, 2000
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman